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EXAMINER

VU, HUY DUY

ART UNIT	PAPER NUMBER
2665	

DATE MAILED: 04/23/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/514,371

Applicant(s)

Curry et al

Examiner

Huy D. Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on Feb 7, 2002

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-22 and 28-37 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-10, 12-22, and 28-37 is/are rejected.

7) Claim(s) 11 is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are objected to by the Examiner.

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) All b) Some* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. _____.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) Notice of References Cited (PTO-892) 18) Interview Summary (PTO-413) Paper No(s). _____

16) Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) Notice of Informal Patent Application (PTO-152)

17) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 2/7/02 have been fully considered but they are not persuasive.

In response to Applicant's argument that Yang's RFC 1789 is not a proper prior art reference, a close look at Yang's RFC 1789 reveals that Yang's RFC 1789 has a publication date of April 1995 which is earlier than the priority date of 12/18/96 of the current application. Therefore, Yang's RFC 1789 is a proper prior art reference.

In response to Applicant's argument regarding claims 35 and 32 that neither Yang nor Crawley teaches the newly-added limitation of "predetermined path," it is noted such new limitation should read on either Yang or Crawley for the following reason. One skilled in the art would have recognized that once a path between two servers is determined, is recorded in the routing table of the router for use with subsequent communications between those two server. Thus, for subsequent communications, the path is considered predetermined.

In response to Applicant's argument regarding claims 30-34 that Yang and Picard can not be combined because Picard is different from the claimed invention, it is noted that Picard is similar to the claims and Yang in an important feature that they all utilize the Internet to carry telephony traffic. Hence, the combination of Yang and Picard is deemed proper. Applicant further argue that Picard's session identifier is not the same as the claimed session identifier because Picard's session identifier

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does not identify a call attempt. It is noted that the function of a session identifier is to identify the call session which could be the call attempt or an on-going call or a completed call.

In response to Applicant's argument regarding claims 1-7, 9-10, 12-13 and 15-19 that there is no motivation to combine Yang, Hogan and Crawley, it is noted that proper motivation is given to each combination of Yang, Hogan and Crawley in the rejection. Specifically, the motivation to combine Yang and Hogan is to improve transmission reliability and the motivation to combine Yang in view of Hogan and Crawley is to enhance system performance by providing guaranteed level of services. One skilled in the art would have appreciated the transmission reliability and the guaranteed level of services in the system of Yang's and Hogan's.

Claim Rejections - 35 U.S.C. § 103

2. following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (RFC 1798 - "INETPhone: Telephone Services and Servers on Internet") in view of Crawley et al (USP 5,995,503).

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Regarding claims 35, Yang teaches sending from a calling party a called number including an area code to a first central office (central office in area A) connected to a first telephone system (telephone system in area A), forwarding the called numbered from the first central office to a first telephony server (INETPHONE server in area A) (see section 1) and in communication with the wide area network (the Internet), identifying the second telephony server (INETPHONE server in area B) from a routing and administration data base (directory server in section 4) using the area code (see section 4), sending the called number from the first server (INETPHONE server in area A) to the second server (INETPHONE server in area B) via the WAN (the Internet) and selectively establishing a communication link between the first server (INETPHONE server in area A) to the second server (INETPHONE server in area B). Yang differs from the claim in that Yang does not explicitly state that the link between the first and second telephony server is set along a determined path. However, it is old and well known in the art to connect two nodes or servers in a packet network (such as the Internet) using a determined path for providing quality of service. For example, Crawley teaches the establishment of a QoS path for providing quality of service in a connection less network environment. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply Crawley's teaching of using a QoS path in Yang's Internet with the motivation being to provide quality of service.

Regarding claim 36, Crawley's a QoS path provides guarantee of service.

Regarding claim 37, router provide identification of path.

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4. Claims 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (RFC 1798 - "INETPHONE: Telephone Services and Servers on Internet") in view of Picard et al (USP 6,233,318).

Regarding claims 30-31, Yang teaches sending from a calling party a called number including an area code to a first central office (central office in area A) connected to a first telephone system (telephone system in area A), forwarding the called numbered from the first central office to a first telephony server (INETPHONE server in area A) (see section 1) and in communication with the wide area network (the Internet), identifying the second telephony server (INETPHONE server in area B) from a routing and administration data base (directory server in section 4) using the area code (see section 4), sending the called number from the first server (INETPHONE server in area A) to the second server (INETPHONE server in area B) via the WAN (the Internet) and selectively establishing a communication link between the first server (INETPHONE server in area A) to the second server (INETPHONE server in area B). Yang differs from the claim in that Yang does not explicitly teach session id. However, session ID is taught by Picard for identifying the current session (see col. 18, lines 23-26). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use Picard's teaching of session ID in Yang's system with the motivation being to identify the current session.

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5. Claims 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (RFC 1798 - "INETPHONE: Telephone Services and Servers on Internet") in view of Picard et al (USP 6,233,318) as applied to claim 30 above and further in view of Crawley et al (USP 5,995,503).

Regarding claims 32, Yang in view of Picard differs from the claim in that Yang in view of Curry does not explicitly teach the guarantee of service for the link between the first and second telephony server. However, it is old and well known in the art to connect two nodes or servers in a packet network (such as the Internet) using a quality of service path that guarantees the QoS. For example, Crawley teaches the establishment of a QoS path for providing quality of service in a connectionless network environment. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply Crawley's teaching of using a QoS path in Yang in view of Picard's system with the motivation being to provide guaranteed quality of service.

Regarding claims 33, since the level of quality of service depends from a particular path which in turn depends from a particular source and destination pair, the determination of the level of service essentially is based on the identification of the calling party.

6. Claims 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (RFC 1798 - "INETPHONE: Telephone Services and Servers on Internet") in view of Crawley et al (USP 5,995,503) and Picard et al (USP 6,233,318) as applied to claim 32 above and further in view of Hogan (USP 5,483,587)

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Regarding claim 34, Yang in view of Crawley and Picard fails to teach an interoffice signaling link between CO and server for reliably carrying signaling communication between the CO and server. However, such feature is taught by Hogan . For example, Hogan teaches that telephony server (302) receives called number from the switching office via a signaling channel (124) (see figures 3 and 5). The use of signaling channel as a reliable means to communicate calling data or other types of calling signaling information is old and well known in the art. Thus, it would have been obvious to one skilled in the art at the time the invention was made to apply Hogan's teaching of using a signaling channel to communicate called number from the switching office to the telephony server in Yang Crawley and Picard's system with the motivation being to improve transmission reliability of control or signaling information.

7. Claims 1-7, 9-10, 12-13 and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (RFC 1798 - "INETPHONE: Telephone Services and Servers on Internet") in view of Hogan (USP 5,483,587) and Crawley et al (USP 5,995,503).

Regarding claims 1 and 18, Yang teaches sending from a calling party a called number including an area code to a first central office (central office in area A) connected to a first telephone system (telephone system in area A), forwarding the called number from the first central office to a first telephony server (INETPHONE server in area A) (see section 1) and in communication with the wide area network (the Internet), identifying the second telephony server (INETPHONE server in area B) from a routing and administration data base (directory server in section 4) using the area

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code (see section 4), sending the called number from the first server (INETPHONE server in area A) to the second server (INETPHONE server in area B) via the WAN (the Internet) and selectively establishing a communication link between the first server (INETPHONE server in area A) to the second server (INETPHONE server in area B).

Yang, teaches the use of INETPHONE servers (telephony server) to route long distance calls over the Internet to reduce cost. Yang differs from the claim in that Yang does not teach that the telephony server receives called numbers from the central office via a signaling channel. However, such feature is old and well known in the art of telephony. For example, Hogan teaches that telephony server (302) receives called number from the switching office via a signaling channel (124) (see figures 3 and 5). The use of signaling channel as a reliable means to communicate calling data or other types of calling signaling information is old and well known in the art. Thus, it would have been obvious to one skilled in the art at the time the invention was made to apply Hogan's teaching of using a signaling channel to communicate called number from the switching office to the telephony server in Yang's system with the motivation being to improve transmission reliability of control or signaling information. Yang in view of Hogan still fails to teach the allocation of resources on the wide area network sufficient to provide guaranteed level of service through the WAN. However such feature is old and well known in the art as evidenced by Crawley. Specifically, Crawley teaches a bandwidth allocation for QoS on the WAN packet network for maintaining a guaranteed QOS in communications within the communications system. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply either the teaching of a bandwidth

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allocation scheme for providing guaranteed services in WAN as taught by Crawley in the system of Yang in view of Hogan with the motivation being to enhance system performance by providing guaranteed level of services.

Regarding claims 2-3, Yang teaches a directory server (routing and administration server) that which, in response to receiving a routing request from the source INETPHONE server in area A, send a reply containing the identity of the destination INETPHONE server in area B.

Regarding claims 4 and 6-7, the INETPHONE server supplies the directory server the telephone number of the destination number so that the directory server. In return, the directory server send back the IP address of the destination INETPHONE server that serves the destination number.

Regarding claim 5, the INETPHONE server also has a local directory from which it can obtain the IP address of the remote INETPHONE server. See section 3.

Gilbert et al (USP 6,097,804)

Regarding claims 9-10 and 15-16, the condition of the called party is monitored by the remote central office and busy status should be relayed to the remote server which in turn sends back condition of called party.

Regarding claim 12, CO always monitors the condition of calling party for connection. It is clear that if the call is dropped by the caller, transmission has to be suspended by the central office.

Regarding claims 17 and 22, since the path is on the same link as other communications, the routers can change the rate of any call based on the traffic.

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8. Claims 8, 14, 20-22 and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (RFC 1798 - "INETPHONE: Telephone Services and Servers on Internet") in view of Hogan (USP 5,483,587) and Crawley et al (USP 5,995,503) and Picard et al (USP 5,078,582). Regarding claims 8, 14, 20-12 and 28-29, Yang in view of Hogan and Crawley fails to teach session id. However, session ID is taught by Picard for identifying the current session (see col. 18, lines 23-26). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use Picard's teaching of session ID in Yang in view of Hogan and Crawley's system with the motivation being to identify the current session.

9. Claim 11 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

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calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any response to this final action should be mailed to:

Box AF

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9314, (for formal communications; please mark "EXPEDITED PROCEDURE")

Or:

(703) 305-9508 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy D. Vu whose telephone number is (703) 308-6602. The examiner can normally be reached on Monday through Friday from 8:00 a.m. to 4:00 p.m.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-4700.